

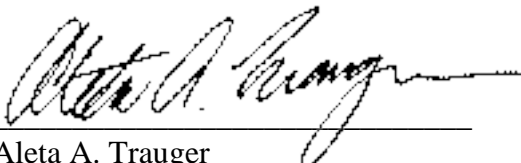


further found that the plaintiff had failed to state a claim against these defendants acting in their official capacities, as there were no allegations suggesting that the plaintiff's dietary woes were attributable to some sort of official policy or custom. Monell v. Dept. of Social Services, 436 U.S. 658, 690-91 (1978).

In his objections, the plaintiff asserts that the Government Defendants are liable because he complained to each of them about his dietary problems but they refused to intervene on his behalf. The Magistrate Judge correctly noted that a prison official will not be held liable under § 1983 simply because he would not act upon a prisoner's grievances. Summers v. Leis, 368 F.3d 881, 888 (6<sup>th</sup> Cir. 2004). The plaintiff, however, disagrees with the Magistrate Judge and contends that a failure to intervene, as in the case of a prisoner being assaulted, does rise to the level of a constitutional violation.

Plaintiff's example of a prisoner being assaulted while a guard fails to intervene is not the same as a prison official who fails to act upon an inmate's dietary grievance. The Government Defendants were not responsible for the planning, preparation or delivery of the plaintiff's meals. That task was assigned to others at the Criminal Justice Center but not to these particular defendants. But in the case of a prisoner being assaulted, every prison official has a constitutional obligation to ensure his safety whenever possible. As a consequence, the Court finds no merit in the plaintiff's objections. The objections, therefore, are hereby **OVERRULED** and the Report and Recommendation is adopted and approved in all respects.

It is so ORDERED.

  
Aleta A. Trauger  
United States District Judge